

INFORMATION SHEET
DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS
RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK
COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: Omaha District
FILE NUMBER: 200460331

REGULATORY PROJECT MANAGER: May **Date:** 21 May 2004

PROJECT REVIEW/DETERMINATION COMPLETED: In the office Y (Y/N) **Date:** 19 May 2004
 At the project site N (Y/N) **Date:**

PROJECT LOCATION INFORMATION:

State: North Dakota
County: Eddy County
Center coordinates of site by latitude & longitudinal coordinates: Lat 47.50.03.2292 Lon 98.47.08.0565
Approximate size of site/property (including uplands & in acres): 75 acres
Name of waterway or watershed: Devils Lake

SITE CONDITIONS:

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake							1		
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands									
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			x		
Is or would be used as habitat by other migratory birds that cross state lines?			x		
Is or would be used as habitat for endangered species?					x
Is used to irrigate crops sold in interstate commerce?					x

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Preliminary __ Or Approved _x_.

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite):

Based on the information provided by the Agent for Eddy County, the edge of the roadway was cattails until the last several years when the lake has risen completely inundating all wetland vegetation. The proposal is to raise the roadbed 4

additional feet for 1000 linear feet having 4:1 side slopes. The North Dakota Game and Fish (NDGF) directory of public waters does not list this body of water as public access. The NDGF stocking records indicate no stocking of game fish. The basin is not jurisdictional based on the SWANCC ruling.